

MEETING #26 July 30

At a Workshop Meeting of the Madison Board of Supervisors July 31, 2009 at 2:00 p.m. in the Thrift Road Complex:

PRESENT: Eddie Dean, Chairman
James L. Arrington, Vice-Chairman
William L. Crigler, Member
Bob Miller, Member
Clark Powers, Member
V. R. Shackelford, III, County Attorney
Teresa Miller, Finance Director
Jacqueline S. Frye, Secretary

ABSENT: Lisa Robertson, County Administrator

Chairman, Eddie Dean called the Board Workshop Session to order. All Board Members are present for today's session, and Lisa Robertson, County Administrator, is absent due to being on vacation, therefore, V. R. Shackelford, III, County Attorney, is present.

Chairman, Eddie Dean asked V. R. Shackelford, III, County Attorney, to provide an update on current taxation issues.

V. R. Shackelford, III, County Attorney, stated he has met with Gale Harris, Commissioner of the Revenue, to discuss the statutes affected by changes recently approved during the 2009 General Assembly session.

V. R. Shackelford, III, County Attorney, stated the General Assembly incorporated changes annually; however, the recent changes that have been incorporated will be difficult for the Commissioners of the Revenue to sort out.

V. R. Shackelford, III, County Attorney, stated there are three (3) issues that have come forth from this years' session (two [2] of which do apply to Madison County and one (1) of which might apply to Madison County in the future, although it doesn't apply right at the present time).

V. R. Shackelford, III, County Attorney, stated the first issue of concern is the how localities are to tax motor coaches (i.e. bus) and whether or not this item can be seen as personal property or as machinery & tools (i.e. the existing rate for personal property is about double the rate for machinery & tools).

V. R. Shackelford, III, County Attorney, stated the attachment that was completed by Lisa Robertson, County Administrator, provides some detailed information regarding Virginia Code §58.1-3506 which lists the specifics of all the various classifications of tangible personal property, with item #25 [“Motor vehicles, trailers, and semi trailers with a gross vehicle weight of 10,000 pounds or more used to transport property for hire by a motor carrier engaged in interstate commerce] or item #39 [“Motor vehicles with a seating capacity of not less than (30) persons, including the driver} – and are taxed as tangible personal property; he also stated that Section B of the printed document denotes the governing body of any County, City or Town may levy a tax on the property enumerated and can be taxed as machinery & tools at a different rate than what is denoted as tangible personal property.

Additionally, V. R. Shackelford, III, County Attorney, stated it appears that most jurisdictions tax motor coaches as tangible personal property – if the County starts changing guidelines (deleting certain procedures) this will possibly result in citizens requesting changes to other taxable categories; also, this will cause complications in the manner in which the Commissioner’s office operates. Furthermore, the County does have an approved budget to follow and changes to taxable income, thus creating budgeted revenue.

In closing, V. R. Shackelford, III, County Attorney, advised unless the Board chooses to do otherwise, motor coaches in the County will be treated as personal property items and will be taxed as recommended.

V. R. Shackelford, III, County Attorney, also noted the second issue of concern pertains to whether or not machinery utilized in wineries should be classified as farm machinery; this is of significant concern to Madison County as the value of these types of equipment is decreased annually and this tax will eventually be eliminated on such equipment (one year decrease annually thus far); he stated the General Assembly has passed a code section that indicates “farm machinery includes equipment and machinery used by farm/wineries in the production of wine.” To date, the County has two (2) significant farm/wineries in Madison County and several smaller operations; therefore, it is deemed the two (2) significant farm/wineries have substantial investment in their equipment. Additionally, the Commissioner of the Revenue has attained (from

one operation) a very detailed listing of what equipment is being utilized (by category), etc. – attempts are being made to attain the same type of listing from the other operation – there have been no issues with the smaller operations. However, the larger of the two (2) has formally asked the Commissioner (and the Board) that all of their machinery in the facility be classified as farm equipment, and being such, will be no longer taxed after three (3) years under the County’s code.

V. R. Shackelford, III, County Attorney, stated if the winery equipment is utilized for the bottling of the wine, there is also bottling equipment to be assessed; there is also a question as to whether or not the bottling process is deemed to be a considerable issue in the production of wine. Furthermore, there is also storage equipment which can also be categorized with the production of wine.

In closing, V. R. Shackelford, III, County Attorney, stated the aforementioned is a new issue for the majority of localities, but most localities are hoping to reach a consensus to have in place for the upcoming year. Additionally, it is being proposed that the Commissioner of the Revenue collect additional information from the local wineries; a discussion will be held in an attempt to reach a consolidated agreement in order to determine exemptions, if applicable. In the event an agreement isn’t attained for this year, the issue will need to be addressed by the Board when setting tax rates for the following year based on the description of farm machinery in the County’s Ordinance. The County can always change its position regarding exemptions from the local tax on farm machinery, although the General Assembly has incorporated some changes.

V. R. Shackelford, III, County Attorney, stated another issue of concern is that the definition of farm/winery in the State of Virginia includes the fact that “grapes are grown on the premises” or “grapes grown in the Commonwealth of Virginia” – however, he did note that one winery uses grapes brought in from outside of the State of Virginia, which might be a mitigating factor.

William L. Crigler questioned how the County could prove that grapes are being bought in from outside the Commonwealth, to which V. R. Shackelford, III, County Attorney, stated the County will have to rely on ‘self-reporting’ information.

Bob Miller stated the Bureau of Alcohol, Tobacco & Firearms has jurisdiction over these sorts of operations and regularly visit these establishments (as being discussed today) to review their ledgers – these documents should denote any transported items.

V. R. Shackelford, III, County Attorney, also stated this issue is also a general matter of the fact that wineries are the type of agricultural enterprise that should be encouraged in Madison County – therefore, it might be questioned as to why Virginia wineries should be included as farm machinery, but this is an agricultural business.

Bob Miller stated the County made changes to the local Ordinance (in the past few months) which allowed agricultural processing to be incorporated into an A-1 zone; he asked if there will be value added to other products, to which V. R. Shackelford, III, County Attorney, stated he was unsure whether the new guidelines apply to all types of possible home operations.

Bob Miller stated he feels the guidelines should apply to all types of cannery operations (i.e. in-home bakeries, tomato canning, etc.).

V. R. Shackelford, III, County Attorney, referred to the new codes regarding farm/wineries, and advised the General Assembly has decreed that equipment/machinery utilized by farm/wineries in the production of wine will be classified as farm machinery; however, there has been no declaration regarding the canning process of garden items (vegetables).

Bob Miller feels if these changes are being incorporated in order to support agricultural business within Madison County, all groups should be included and not just farm/wineries.

V. R. Shackelford, III, County Attorney, suggested the County be concise in whatever resolution is made regarding this issue so the public will understand what is being required, which in turn, will better prepare the Commissioner to enforce the process in a smooth manner.

V. R. Shackelford, III, County Attorney, stated he believes the issue regarding farm/winery will produce a significant economic impact on Madison County; although these types of equipment are subjected to an annual reduction in value, a substantial investment will be made in the long run.

V. R. Shackelford, III, County Attorney, also stated that most localities follow a similar example, although not as unique as what is being done in Madison County.

Discussions continued regarding production in orchards; however, it was also noted that once equipment is utilized in a processing manner, it is deemed to be personal property.

Chairman, Eddie Dean stated there is nothing in effect for personal property taxes to be collected in December 2009, to which V. R. Shackelford, III, County Attorney, advised the County's Ordinance goes into effect in January 2009; therefore, the Commissioner stated that a decision will need to be made rather quickly.

V. R. Shackelford, III, County Attorney, stated the General Assembly has also created the possibility for a separate classification category for short-term rentals (not currently a significant issue in Madison County); if this becomes an issue in Madison County, the County might have to create a different classification for these such rentals properties are currently included in merchant's capital at the present time.

Chairman, Eddie Dean stated the legislation for the changes will go into effect July 1, 2009; however, V. R. Shackelford, III, County Attorney, stated all the County's Ordinances that pertain to the tax rates are adopted in the spring of each year, although the effective date is January 1st of the existing tax year.

James L. Arrington questioned why this factor is an issue at the present time when there was no concern raised when County property was assessed on January 1, 2009, to which V. R. Shackelford, III, County Attorney, explained the timeline of the current statutes that have been put into place by the General Assembly.

V. R. Shackelford, III, County Attorney, also provided reasoning as to why wineries have been included in the changes incorporated by the General Assembly, and also clarified the incorporation of changes in reference to the County's timeline for adoption of tax rates (Ordinance adopted in the spring but effective January 1st of existing year).

Chairman, Eddie Dean questioned why the inclusion of taxing wineries (i.e. personal property) wasn't on the books prior and therefore, feels this change should not be incorporated until January 1, 2010.

Bob Miller also stated the Board did not have this pertinent information at the time the County's Ordinance was adopted; however, Gale Harris, Commissioner of the Revenue, stated the Virginia Code was in place in 2004 (as based on the County's assessment of what is considered to be farm equipment).

It was also noted the Commissioners from surrounding localities desire to have a meeting in the fall to assess what is being done in each locality.

In closing, V. R. Shackelford, III, County Attorney, stated he and Gale Harris, Commissioner of the Revenue, will continue to gather information regarding this issue and report back.

James L. Arrington feels the County needs to be as favorable to the farm/wine industry, as this process is an agricultural asset for Madison County.

Chairman, Eddie Dean stated a Public Hearing has been scheduled for the August Regular Meeting on Courthouse fees and asked V. R. Shackelford, III, County Attorney, to provide an overview of this topic.

V. R. Shackelford, III, County Attorney, stated there are two (2) fees: one being the Courthouse maintenance fee and the second being a Courthouse construction fee; the courthouse maintenance fee is already in place at a rate of \$2.00 for every criminal, traffic or civil suit filed in Madison County (Clerk currently assesses this fee) and paid monthly to the Clerk. Additionally, the General Assembly enacted a Courthouse construction fee (convoluted) and it only applies if the Department of General Services (on or after January 11, 2008) certified the Courthouse from which a County is currently operating in does not comply with safety/security guidelines as mandated by the Virginia Courthouse Facilities Guidelines. Therefore, a locality must attain this certification before the fee can be charged, and the County will have to pay a fee in order to obtain certification through the State of Virginia.

William L. Crigler asked if the certification is annual, to which V. R. Shackelford, III, County Attorney, stated it is a one-time certification.

Additionally, V. R. Shackelford, III, County Attorney, stated the Courthouse in Madison County, Virginia was not in compliance with the aforementioned guidelines on January 11, 2008; therefore, it is deemed the County will be able to obtain said certification through the State; once the certification is obtained, the County can add

a fee of \$3.00 which will be charged for every civil case that is over \$500.00, and will also be applied to every criminal and traffic case – collection will be implemented in the same manner as is now in place and the fee will be remitted to the County in the very same manner; funding must be utilized for expenses regarding Courthouse construction only.

The Board members questioned how many cases are normally over \$500.00, to which V. R. Shackelford, III, County Attorney, advised that most civil cases are generally over the inquired amount.

James L. Arrington asked about the funding and if it is only spent for courthouse maintenance, to which Teresa Miller, Finance Director, advised this particular funding isn't supplemented or moved into the Capital Fund to cover Courthouse maintenance – these funds generally go into the General Fund and are utilized to balance the County's budget under Facilities/Maintenance.

Additionally, Teresa Miller, Finance Director, stated if the fees are collected for courthouse construction, these funds can be budgeted and supplemented on a quarterly basis - she will check to see the existing costs for maintenance of the Courthouse and report back.

Chairman, Eddie Dean also suggested there be a report denoting the percentage of cases that represent offenders who are not Madison County residents and this information be made available at the upcoming Public Hearing in August.

V. R. Shackelford, III, County Attorney, advised he was unsure if the Clerk had records denoting this information; however, it can be inquired.

Teresa Miller, Finance Director, asked if the County will discontinue collection of the aforementioned fees once construction on the Courthouse has been completed, to which V. R. Shackelford, III, County Attorney, advised the fee will continue.

Chairman, Eddie Dean stated as time progresses, the County might have to include a line item budgeted solely for Courthouse construction fees.

V. R. Shackelford, III, County Attorney, commented on the contents of the Ordinance and how the wording pertains only for the "construction, reconstruction, renovation/adaptation of a structure for a Courthouse."

Chairman, Eddie Dean feels the Sheriff might be able to provide detailed information regarding the traffic count and the number of tickets that have been issued.

In closing, Teresa Miller, Finance Director, advised that she will send the Court Clerks an email to see if they can supply the information that is needed in order to develop a percentage rate.

V. R. Shackelford, III, County Attorney, that action is moving forward with changing the polling place in the Criglersville Precinct from Todd's Garage to the former Criglersville Home Economics Cottage, located at the Old Criglersville School Property – this will need to be discussed and acted upon during the September Regular Meeting. Furthermore, all information has been forwarded to the proper entities in order to obtain clearance from the Justice Department as required under the Voting Rights Act (first election is in November 2009).

Chairman, Eddie Dean stated the Board passed a Resolution during the July Regular Meeting to approve a supplemental appropriation to the FY2010 Budget to allow the Madison County Sheriff's Department to purchase vehicles; however, an email has been received from Erik Weaver, Sheriff, to request the Board refrain from executing any purchase orders. Due to the fact this is the first meeting session since approval of the aforementioned Resolution, and the Board generally doesn't take action during the Board Workshop Session, Chairman, Eddie Dean asked V. R. Shackelford, III, County Attorney, if the request could be voted on today's Workshop Session.

V. R. Shackelford, III, County Attorney, stated that although the Board doesn't usually take action during the Workshop Session, in exercise of caution, he feels the Board should take action today, should the members wish to reconsider their initial vote (Miller & Powers were absent during the session in which a vote was originally recorded in July 2009).

Bob Miller verbalized concerns as to the specifics of the Resolution, to which Chairman, Eddie Dean explained the Sheriff requested to obtain additional vehicle bids and therefore, has requested the County not proceed with the initial Resolution approving a supplement for the purchase; therefore, it is suggested if the County isn't going to proceed with the vehicle purchase as previously approved, the Resolution should be rescinded.

James L. Arrington asked if the Sheriff will still need the vehicles, to which Chairman, Eddie Dean advised that he will, but he is trying to work a better purchasing deal.

William L. Crigler also stated the initial Resolution was approved with the purchase to be made at Crossroads Ford, Inc.; however, the County must rescind this document in order for the Sheriff to proceed with acceptance/review of bids from other automobile dealerships.

V. R. Shackelford, III, County Attorney, also stated the deal for the purchase of vehicles is very expensive and the County wants to make sure all options are reviewed before any funds are relinquished.

RESOLUTION

AUTHORIZING PROCUREMENT OF LAW ENFORCEMENT VEHICLES AND APPROVING A SUPPLEMENTAL APPROPRIATION TO THE FY2010 BUDGET FOR PURCHASE OF LAW ENFORCEMENT VEHICLES

WHEREAS, the Sheriff has submitted to the Board of Supervisors pricing information, dated July 5, 2009, for the proposed lease-purchase of nine (9) County law enforcement vehicles from Crossroads Ford, under a cooperative procurement arrangement with York County, or if cooperative procurement is not available, then from any authorized state contract vendor, to be financed under Ford Motor Credit Company's Municipal Finance Program;

WHEREAS, the total amount of the proposed purchase to be financed is \$233,094.62, and funding is available for this transaction;

NOW, THEREFORE, the Board of Supervisors does hereby authorize the County Administrator and Finance Director to enter into this procurement transaction and to sign all paperwork and complete all necessary documentation for the lease-purchase of nine (9) County law enforcement vehicles from Crossroads Ford, for the amount of \$233,094.62, financed over a three year period; and

BE IT FURTHER RESOLVED that the Board of Supervisors does hereby amend the County budget for FY2010 with the following supplemental appropriations for a cooperative procurement with York County: \$233,094.62 to be appropriated to the Sheriff's budget, \$233,094.62 to be appropriated to revenues (proceeds from a capital lease), or appropriations to the same categories in a not-to-exceed amount of \$240,000 in the event of a state contract purchase and \$81,443.26, or the amount of the first lease payment under a state contract purchase, to be appropriated to budgeted expenditures (capital debt service) to cover the first payment due under the lease.

Rescinded this 31st day of July, 2009, on motion of William L. Crigler, seconded by James L. Arrington.

	<hr/> Eddie Dean, Chairman			
	Aye	Nay	Abstain	Absent
Eddie Dean	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
James L. Arrington	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
William L. Crigler	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Bob Miller	<u> </u>	<u> </u>	<u> x </u>	<u> </u>
Clark Powers	<u> </u>	<u> </u>	<u> x </u>	<u> </u>

Attest: _____
 Lisa Robertson, County Administrator/Clerk to the Board

In closing, Chairman, Eddie Dean advised the previous budget amendment is now off the table.

Teresa Miller, Finance Director, advised that monthly reports are ready and have been placed in Board member's boxes – she suggested these reports be reviewed prior to her leaving for vacation during the send week of August.

V. R. Shackelford, III, County Attorney, requested guidance from the Board with regard to the kennel issue that was discussed during the July Regular Meeting; he feels the County will need to refocus the definition of a "kennel" based on "the number of dogs being kept" rather than "whether the dogs are for sale."

William L. Crigler asked if this concern has been brought before the Madison County Planning Commission for discussion, to which V. R. Shackelford, III, County Attorney, advised this will be done during an upcoming workshop, should the Board desire.

Concerns were verbalized with regard as to why hunting dog owners should be exempt, to which it was advised that hunter's dogs are allowed to run loose when hunting.

V. R. Shackelford, III, County Attorney, suggested emphasis be made on dogs that aren't confined, (i.e. non-hunting dogs) and also stated there will be much difficulty proving that dogs are being sold (i.e. proof issue) unless someone is willing to come forth to admit the facts.

Chairman, Eddie Dean concurred with turning the issue over to the Madison County Planning Commission for some direction/recommendations – if the Board isn't satisfied with the suggestions, alternatives can be suggested

William L. Crigler also stated, personally, he did not feel that an owner of purebred kennel dogs will turn them loose and let them run about for hunting purposes (non-hunting dogs); therefore, he feels it would be more appropriate to have the issue discussed by the Madison County Planning Commission first; he stated that most hunters that he knows, keep their dogs in kennels until hunting season, whereas, the individual discussed at the July Regular Meeting doesn't seem to follow this routine.

Chairman, Eddie Dean stated he feels the reasoning behind having a Madison County Planning Commission is to have a group available to study issues that arise within the County and in turn, are more than able to provide the Board with ideas and recommendations as how best to resolve these types of issues.

William L. Crigler also suggested that a copy of the letter provided by the concerned citizen be forwarded to the Madison County Planning Commission for review.

Chairman, Eddie Dean also suggested the citizen be informed when the issue will be discussed by the Madison County Planning Commission just in case she'd like to attend and provide some insight.

V. R. Shackelford, III, County Attorney, stated he and Lisa Robertson, County Administrator, will be attending the Madison County Planning Commission Workshop when this topic is being discussed.

Chairman, Eddie Dean provided the Board members with some reading material (as prepared by Lisa Robertson, County Administrator) to be reviewed prior to discussion at the next meeting.

With no further discussion or action being required by the Board, on motion of William L. Crigler, seconded by Bob Miller, Chairman, Eddie Dean adjourned the meeting, with the following vote recorded:

Eddie Dean	Aye
James L. Arrington	Aye
William L. Crigler	Aye
Bob Miller	Aye
Clark Powers	Aye

Date: August 1, 2009